

1 appreciate it or maybe the family doesn't
2 appreciate it, but I appreciate it because
3 I've seen a number of lawyers come up here.
4 You did your job to the credit of your
5 profession.

6 MR. LAWSON: Thank you, Your Honor.

7 THE COURT: Anything else you want to
8 say? Do you want to tell me anything, Mr.
9 Holmes?

10 THE DEFENDANT: I ain't got nothing to
11 say.

12 THE COURT: Okay. Count No. 3 is the
13 aggravated murder and Count No. 3 has two
14 specifications. On Count No. 3, on the
15 specifications, the sentence of the Court is
16 life with no parole until the expiration of 30
17 full years. On the firearm specification, the
18 sentence of the Court is three years.

19 On the aggravated robbery, which is
20 Count No. 4, the sentence of the Court is not
21 less than 10 nor more than 25 years in the
22 Ohio Penitentiary.

23 On Count No. 5, which is the
24 kidnapping, not less than 10 nor more than 25
25 years in the Ohio Penitentiary. Counts 3, 4

1 and 5 are to run consecutive with each other.
2 And the firearm specifications under the
3 aggravated murder is to be served before
4 Counts No. 3, 4 and 5. Now it is my
5 understanding that's the most I can do.

6 MR. BUTLER: Yes, Your Honor.

7 THE COURT: There will be no sentences
8 on the other counts because they're redundant.

9 MR. LAWSON: Thank you, Your Honor.

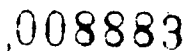
10 THE COURT: Is that it? Okay.

11 MR. LAWSON: Excuse me, Judge. Will
12 you advise him of his appeal rights?

13 THE COURT: Yes.

14 Mr. Holmes, you have a right to appeal
15 the conviction and sentence. If you can't
16 afford the costs of an appeal, you can do it
17 for nothing. If you can't afford a lawyer,
18 we'll appoint one for you. If you can't
19 afford the papers that are needed, we'll see
20 that you get them free of charge. You have a
21 right to have your Notice of Appeal filed
22 within the proper time.

23 Now my question to you is this. Do you
24 want me to appoint a lawyer to appeal your
25 case?



ASSIGNMENTS OF ERROR

- I. Failure To Suppress statement - coercion
~~4th~~ State v. Brewer (1990) Minanda
- II. Failure to suppress - Eduardo p. 715
~~10/15/97~~ p. 767
- X III. 4th Amendment - improper search
 of LMS's house → letting
- X IV. Improper search of Neal house
Kenia v. Wallace 370531216 → contra
- X V. Improper search of Anderson house
- ✓ VI. Case improperly taken from Morrissey
 to Kuhlman, a former prosecutor.
Enoch R. 7 "I was at it" → p. 1252
p. 1270
- ✓ VII. No fair/impartial jury. State v. Filton 5705311
p. 407
- X VIII. Motion for change of venue pages 356-7
la. comments, p. 230-231 520 5418
1075 [1076]*
- I IX. Death qualification p. 232
p. 237
- ✓ X Pros. misconduct
 - arguing to jury during voir dire p. 241
 - "how you feel" p. 297 "smotherness" p. 937
~~the change of venue~~ "ambience" p. 956 11/96
- X XI Consider mercy p. 349
Improper?
- XI Death as a recommendation p. 362-3

✓ XIII BASCON p. 407 pattern? 407-409

- predisposed to consider facts? p. 410
- uncle is ethy p. 411
- arms folded p. 412
- Mason p. 461

XIV. Inherent Testimony - victim's social character (Richardson?) p. 629

✓ XV. Cumulative evidence - Transcript 629-635 p. 685

XVI. WEIGHT/SUFF. OF EVIDENCE

RULE 29 p. 681

- specific intent p. 713
- no intention to kill p. 713
- no denial p. 717
- Holmes wouldn't know accident p. 723
- Kinley didn't see shooting p. 724
- No knowledge of killing p. 776
- Testimony flawed p. 776

31b. trigger p. 612
91b. trigger

✓ XVII. PHOTOGRAPHS

- direction/discussion, 803-804
- #23 - p. 817 → jury
- admitted p. 817

Not to me? p. 812

#1 } p. 836
#21 } p. 871
#26 }

XVIII. DEPO → was opinion of expert re: handling of victim supported?

p. 857-860

let in p. 862

XIX Under implicitly reduced
 state's burden re introduction
 of back p. 843

X Reasonable doubt p. 963 p. 1237
 elements p. 967

XI Mergers p. 1060?

XII Mergers & related doubt
 about death p. 1060

XIII Sufficiency of single inflicting
 factor p. 1062-3

XIV Scope of circumstantial evidence
 denied, p. 1064.

XV Recommendation
 1236(12) 1241(49) 1246(12)
 1247(2) 1248(2) 1249(12)
 1250(12)

XXVI Expert opinion & killing the grand
 administration p. 1116
 statements? p. 1117
 ans. p. 1198

- Meet with J. A. H. prior to trial p. 1119

V.I Mitigating v. Agg.
 - included p. 1135-36
 - vol. consented 1136
 - unproductive mom p. 1135
 - environment 1176
 - ruled p. 1148
 - ~~XXXXX~~

IX VIII Consentive sentences p. 1269

IX IX Unknow that p. 1227-24

IX - only 3 mitigating factors? p. 1243

31 - suffering of victim
 ↓
 State v. Lombas 62053d 278 (1991)

30 - Non-statutory agg factor p. 1254

32 - unanimity required p. 1255

LEE EDWARD ~~WORK~~

~~Georgia~~

QUESTIONS

1. Lie detector test - can't be put into evidence under Rule 403.
2. Dealing with the press - NO
3. Witnesses: 1) bring in specialists who saw Lee
2) Harry said to a boy "I shot him"
3) Cameron — is boy who talked to boy
4. Lee was robbed last year → we need prob

008888

5:23 p.m.

Δ nabbed @ McD's @ 5:23 p.m.
p.18 Jan. 20, 1994

Δ handcuffed and put him
into the back of my cruiser p.13.

→ Δ kept asking "What's this about?"
p.13-14; Δ did not answer,
but told him Field cops
would explain p.14.

When I arrested Δ, I did not
advise him of his Miranda
rights p.15-16.

Δ was taken to Mt. Healthy, where
he was put into a holding
cell. p.19

- Δ had ordered food, but was
confined before it was taken
p.19.

- No running water in cell.

Δ was never told purpose
for arrest or Mirandized
p.21.

Δ was in cell until 12:25 a.m.
on Jan. 21, 1994. Δ Never interviewed,
Mirandized, or advised.

Officer took Δ's hat, shirt,

and sweatshirt, even though it was dead of winter. p.26.

~~That~~ Officer did not give any clothing to Moore at this time, but a coat was provided 4 hours later, when Δ was taken to HCSC. p.29.

Pink blanket was provided p.31.

Officer didn't advise Δ p.32.

Δ was not fed @ Mt. Healthy p.33

Didn't have a drink on p.41. or shoes

Rights were read to Δ in holding cell. p.45-46.

Δ had to walk through the dust and snow in his stocking feet p.46-49; p.52; interviewed in sock p.110

→ When Δ was initially arrested, he was not advised of why he was being arrested or of his rights p.59.

* The first time rights were read was 12:10 a.m., over six hours after Δ arrested.

Actual interview did not occur until 4:45 a.m. p.83

Δ was not given opportunity to contact family members or use the telephone p.81.

Cop says Δ did not ~~make~~ for a lawyer p.86

Taped statement did not begin until 6:35 a.m. p.86.

Cop never asked Δ if he wanted a lawyer. p.103

Cop says water, pop, food offered during 4:45 interview p.112.

* Miranda rights given to Δ @ 12:10 a.m., four and a half hours before interview took place.

* Moore finally admitted of why he was being held @ 4:45 a.m.

→ Δ was crying by the time cops got him to confess: sobbing loudly p.125.

/// Δ had not eaten since 9:00 a.m. the morning of the arrest.

Corroboration:

- McD's arrest: p. 129
- taken to, M. Healy: p. 130
- put into cell p. 130
- col. Toilet, blanket - p. 131
- cops took shirt p. 131-132
- another came and took shoes p. 132
- no one talked to me p. 133
- info form @ 12:15 p. 133

* I asked for lawyer @ 12:10 p. 133-7
 cop ignored me p. 134 ignored me p. 42

- new & dirty p. 135
- no food p. 135; p. 139
- new hungry p. 135
- no towel or new clothes p. 138

Hands were cuffed behind back
 until 4:45

No exposure to criminal system p. 145-6
 but knew rights p. 152-3.

Search: Improper search of Neal
 house, p. 172-174. Implied
 authority.

State v. Brown

Juryors

IMPROPER ASSIGNMENT

Local Rule 7(B) & (E) → Presiding
 judge may assign cases
 if assigned judge is engaged
 in trial.
 Δ motion denied p. 210.

IMPROPER VENUE → New system p. 364

- 5 blacks only p. 211 in venue
- ~~excused p. 211 (no 6)~~
- only one black male p. 212. No. 46.

* jury selection process unfair p. 213.

* State v. Fulton 520 S.2d 120 p. 215

Facts:

- venue selected from jury registration p. 22.
- motion overruled p. 227

Juryors

- murder p. 256
- known 5 & Seal
- death qual. p. 257
- excused p. 257
- (Harris excused)

* Freeman - 258

IT #3 p. 405

- death qual 257-8
- personal feelings p. 260
- "not a sin" p. 261

BATSON p. 407

* Pettigrew - 262

excused IT #1 p. 364

- qual. p. 262

- scale p. 263

- religion p. 264

Warren p. 264

* could consider it p. 272

- death qual 265
- excused p. 273

WOBLETS

008893

warren direction p. 274

wee RE

X Peter 274

- qual p. 276 "we need it" ~~dx~~

$\Delta \#2$ p. 397

X Gottenhorn 278

knowns \uparrow

$\Delta \#5$ p. 449

- qual. p. 280

rank 7

S Wellington p. 281

- qual. p. 282 (6-7)

6 Mason p. 283

- qual. 285 (6)

X Gorman p. 286

knowns see J.

- qual. p. 287

- in-law cop p. 307

- resp. for actions? p. 354

$\Delta \#4$ p. 441

X Iker p. 288

- knowns Piggmeyer

- qual. p. 290 (5)

related to Nurse p. 351

$\Delta \#3$ p. 426

X Rau p. 291

- distrusts Shrinker p. 291

- qual. 292 "necessary deterrent"

$\Delta \#1$ solid officer p. 316

IC Miller 292

- qual. 293-4 (7) 295

II Englund

p. 295 \rightarrow Emily's friend

- qual. p. 296 "for it"

- No. LO 296

- "how you feel about it" p. 297

008894

2 Mendon 297

inmate in law rapd 305

- knows James
- qual. 295 "for it"

2 Weller p. 366

falling asleep p. 527

- knows cops p. 369
- security guard 20 yrs p. 374
- qual p. 372 (5-6)

ADG 5-11-17

* Ashton p. 381

IT #2 p. 389

- qual. p. 382 (extreme cases)
- shrinks p. 385

* Baldary 390

IT #4 p. 432

- qual p. 392 (5)

3 Bording p. 398

ADG 5-11-17

- Sheriff's office
- qual p. 400
- last sig p. 401

* Grevenkamp p. 405

Δ #6 p. 457

- cousin is killer p. 419
- qual. 422 (9+)
- last sig 422

8 Games p. 428

- previous case w/ Rothman
- qual p. 429 (5-6)
- last sig p. 429

9 Phillips p. 433

- knows death row person p. 434
- knows cop 437
- qual p. 438 (6-7)

7 Linto p. 441
- qual p. 444(8)
- last sig p. 444

4 Hopkins p. 449
- qual p. 452(7)

X Savage p. 457
- qual p. 463
- last sig p. 464 → "NO"
- case, p. 471

6 Munderbach p. 471
- qual p. 473

X-1 Jackson p. 481
- qual p. 482(6)
- last sig p. 483

X Baron p. 483
- qual p. 487(5) Δ #1-1, p. 486

X Irvine p. 496
- opposed p. 496-99 case 501

X-2 Williams p. 501
- qual. 504
- last sig p. 505

VIII. NOTES

008897

INFORMATION SHEET

TODAY'S DATE 1-37-94 TYPE OF CASE: CRIMINAL
ATTORNEY TO SEE: Tim Deardorff CASE NO: _____
CLIENT(S): Lee Edward Moore Jr. Lee Edward Moore (Father)
Georgia Moore (Mother)
HOME ADDRESS: 1101 Clearbrook ZIP 45229
EMPLOYER & BUSINESS ADDRESS: _____
HOME NO: 522-0990 (unlisted) mother
242-1482 (Father) WORK NO: 626-3525 (Sister)
Parker
ADDITIONAL PHONE NUMBERS: _____
SOCIAL SECURITY NO. Lee Edward Moore Jr.
284-74-1946 DATE OF BIRTH: 10-19-74
OPPOSING PARTY: _____
ADDRESS: _____ ZIP _____
PHONE NO: _____ SOCIAL SECURITY NO: _____
DATE OF BIRTH: _____ OPPOSING COUNSEL: _____
ADDRESS: _____ PHONE NO: _____
DATE OF LOSS/ACCIDENT: _____ COURT DATES: _____

WHO REFERRED YOU TO THIS OFFICE: _____

NOTES: _____

008898

IV. JURY QUESTIONNAIRES -

LEE MOORE

008899

~~A.~~ CONTRACTS

90

NO

008907

DEPARTMENT OF PRETRIAL SERVICES

CENTRAL INTAKE ONLY

Interviewer: Re Date: 11/21/94 Time: 12:15 a.m.
 Social Security No.: [REDACTED] D.O.B.: 10-19-74
 Race: B W O Sex: M F Cash On Person: \$5.00
 Remarks:

Name: MOORE, Lee Edmund
 Aka: [REDACTED] S.P. I.D. 1710
 Intake I.D. No.: 1848484
 Outstanding warrants, holders, standard bonds:

RESIDENCE & FAMILY TIES		VERIFICATION	
YES	NO	YES	NO
Current Address: <u>1101 CLEARBROOK DR (29)</u>	Alt. Address:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Length: <u>14R</u> Telephone: <u>242-1482</u> If none contact:		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Resides with: <u>Lee Moore</u> Relationship: <u>Father</u>	<u>+Stepmom</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lived in County last five years? <u>Yes</u> No. If no, explain:		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Prior Address: <u>1280 Mendenhall DR (31)</u> Length: <u>18YRS</u>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
D/W/M Contact with: <u>above</u> Relationship:		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marital Status: <u>Q M</u> D Sep W CL No. of Children: <u>none</u> Supported by:		<input checked="" type="checkbox"/>	<input type="checkbox"/>
EMPLOYMENT & EDUCATION			
Current Employer: <u>unemployed</u> Position:		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Length: <u>FT</u> PT Seasonal If unemployed, means of support: <u>Father</u>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Spouse's Employer:		<input type="checkbox"/>	<input type="checkbox"/>
Prior Employer: <u>Forest Hill Mall Store</u> Length: <u>14R</u> If unemployed, last employment date: <u>1992</u>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Last Grade Completed: <u>11th</u> If currently enrolled in school, give details:		<input checked="" type="checkbox"/>	<input type="checkbox"/>
HEALTH STATUS			
Currently treated by Physician? Yes <u>No</u> If yes, where?	Frequency: <u>1-2x/yr</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Condition:	If chronic, explain:	<input checked="" type="checkbox"/>	<input type="checkbox"/>

DISCLOSURE OF CRIMINAL HISTORY		Probation?	Parole?
Prior Convictions: <u>None</u>		<input type="checkbox"/>	<input type="checkbox"/>
Prior State or Federal Commitments:			

REFERENCES AND BOND INFORMATION					
Reference Name	Relationship	Telephone	Work Number	DUI Ride	Ver. By
<u>Lee Moore</u>	<u>Father</u>	<u>242-1482</u>			
<u>George Moore</u>	<u>Mom</u>	<u>522-9203</u>			
Bond Sponsor:				Verified Bond or Alternate Bond Amount \$	Cash Property %

POINT SCHEDULE			REMARKS:		
RESIDENCE	3	3	OVER ONE YEAR AT PRESENT RESIDENCE		
	2	2	OVER 6 MONTHS AT PRESENT RESIDENCE / OVER ONE YEAR AT PRESENT AND PRIOR RESIDENCE		
	1	1	BETWEEN 6-12 MONTHS AT PRESENT AND PRIOR RESIDENCE / 4-6 MONTHS AT PRESENT RESIDENCE		
	0	0	LIVED IN COUNTY LAST FIVE YEARS		
FAMILY TIES	3	3	LESS THAN 4 MONTHS AT PRESENT RESIDENCE OR 6 MONTHS AT PRESENT & PRIOR RESIDENCE		
	2	2	LIVES WITH SPOUSE AND CHILDREN		
	1	1	LIVES WITH SPOUSE OR CHILDREN OR PARENT/GUARDIAN		
	0	0	LIVES WITH OTHER RELATIVE / HAS WEEKLY CONTACT WITH FAMILY MEMBER		
MEANS OF SUPPORT	3	3	LIVES ALONE OR WITH NON-RELATIVE OR NO FAMILY CONTACT		
	2	2	PRESENT JOB ONE YEAR OR MORE		
	1	1	PRESENT JOB 6-12 MONTHS / HOMEMAKER WITH CHILDREN OR FULL TIME STUDENT		
	0	0	PRESENT JOB 3-6 MONTHS / CURRENT AND PRIOR JOB OVER 6 MONTHS		
HEALTH	3	3	UNEMPLOYMENT COMPENSATION, WELFARE, DISABILITY, FAMILY SUPPORT		
	2	2	NOT EMPLOYED OR OTHERWISE SUPPORTED OR UNDER 3 MONTHS AT CURRENT JOB		
	1	1	POOR HEALTH - AT LEAST MONTHLY CONTACT WITH M.D. OR CLINIC / PREGNANCY OR OLD AGE (65+)		
	0	0	NO PREVIOUS CONVICTIONS		
PRIOR CRIMINAL HISTORY	0	0	ONE MISDEMEANOR CONVICTION		
	-1	-1	TWO OR THREE MISDEMEANOR CONVICTIONS		
	-1	-1	ONE FELONY CONVICTION		
	-2	-2	FOUR OR FIVE MISDEMEANOR CONVICTIONS		
	-2	-2	TWO OR THREE FELONY CONVICTIONS		
	-3	-3	SIX OR MORE MISDEMEANOR CONVICTIONS		
	-3	-3	FOUR OR MORE FELONY CONVICTIONS		
	-3	-3			
TOTAL MISD. CONV. (VIO. MISD.)			TOTAL FEL. CONV. (VIO. FEL.)	MINOR MISD.	PENDING CHARGE

TOTAL POINTS AND ELIGIBILITY			
<input type="checkbox"/> ELIGIBLE OWN RECOGNIZANCE	<input checked="" type="checkbox"/> NOT ELIGIBLE: <u>NO</u>	<input type="checkbox"/> ELIGIBLE REPORTING RELEASE	<input type="checkbox"/> SCREENED ELECTRONIC MONITOR
BOND INFORMATION			
Charge 1: <u>Agg murder</u>	Case #	Bond Amt./Type	<u>NB</u>
Charge 2: <u>Agg kidnapping</u>	Case #	Bond Amt./Type	
Charge 3: <u>Agg robbery</u>	Case #	Bond Amt./Type	
Charge 4:	Case #	Bond Amt./Type	
Charge 5:	Case #	Bond Amt./Type	
DATE: <u>11-21</u>	TIME: <u>1-22</u>	JUDGE: <u>DAVIS</u>	POLICE PREFERENCE: <u>High</u>
DISPOSITION / REMARKS:			

008901

OFFICE OF THE HAMILTON COUNTY PUBLIC DEFENDER

CLIENT Moore Lee EAttorney TIM Deardorff
Phone _____

AKA _____

			Length/Susp/Credit	Fine/Susp.	Costs/CR	Prob.	
94	CR	A 1926	CHARGE	Agg Murder	/	/	yrs
94	CR	A 1927	CHARGE	Agg Robbery	/	/	yrs
	CR	B	CHARGE	Kidnapping	/	/	yrs
	CR		CHARGE		/	/	yrs

NOTES/TO DO _____

Arraignment 1, 22, 94 Judge _____ Rm A B Time 9:00 10:30 1:00 Bond No Bond
☒ Pre-Hear 1, 28, 94 Judge _____ Rm B Time 9AM 500,000.00
☐ Pre-Trial _____ Judge _____ Rm _____ Time _____ No 1.
☐ Trial _____ Judge _____ Rm _____ Time _____
☐ Sent. _____ Judge _____ Rm _____ Time _____

AGE 19 DOB 10, 19, 74 S M R B SS No. _____
 Single X Married _____ Sep. _____ Div. _____ Widow _____ No. of children at home _____
 ADDRESS 1101 Clearbrook Dr Apt. _____ Zip 29
 LIVES WITH FATHER Phone 242 1482
 COUNTY RESIDENT _____ years X all life EDUCATION: 11
 TRAFFIC/CRIMINAL RECORD N

Pending Charges _____ Judge _____ Attorney _____
 Parole/prob charges _____ Judge _____ Prob. Off. _____
 Co-defendants 2 Juv Date of Arrest 1 / 1 Statement Y N

STATE OF OHIO : SS
 COUNTY OF HAMILTON : SS

AFFIDAVIT OF INDIGENCY

After being duly cautioned and sworn, I, the undersigned, say the following information is true to the best of my knowledge and belief. I understand I am subject to criminal charges for providing false information.

I. INCOME

1. Employer _____ yrs. _____ mos. NET WEEKLY PAY NONE
 Position _____
 Spouse's Employer _____ yrs. _____ mos.
 2. Alimony/Child Support _____ Other Income _____
 (received - paid/deducted) TOTAL: _____

II. ASSETS

1. Cash on hand 500 In bank _____ At home _____
 2. Own car/truck Y Year 80 Make Ford
 3. Own house Y How Long _____ Value _____
 Other Property _____

AMOUNT/EQUITY: _____

PAYMENTS _____

III. MAJOR DEBTS

I further state I am indigent at this time, and am unable to provide for the payment of an attorney and all necessary expenses of representation. I understand I may be required to reimburse the Hamilton County Public Defender for legal services rendered on my behalf. Maximum reimbursement will be that expended in accordance with the fee schedule, an amount not to exceed _____. The terms of such reimbursement will be determined by the Hamilton County Public Defender at a date not later than one month after case disposition, or by the Court.

X Lee E. Moore
 Defendant
 Sworn to before me and
 subscribed in my presence this 22 day of Jan, 1994
 Signature of Officer Theresa E. Saper
 Name (printed) _____

Notary Public, State of Ohio
 My Commission Expires 6-3, 1997

008902

CASE ACTION:

Facts

Date interviewed (/ /)

Office File No.

008903

#13 - Jane Jackson, Hyde Park
 #14 - Carlene E. Williams, Forest Park

BEFORE JUDGE Robert P. Ruehlman

DATE

No. (B-9400481)

VS.

TRIAL

REPORTER

BACK ROW

Robin A. Mundersbach
 Mt. Washington

David M. Weller
~~Groesbeck~~
 JAMES JACKSON

Diane L. Borgerding
 Anderson Twp.

Guy R. Hopkins
 Finneytown

Jeffrey C. Wellington
 Loveland

Donna M. Mason
 Silverton

Katherine M. Calto
 Anderson Twp.

Patricia A. Games
 Mt. Washington

Linda J. Phillips
 PriceHill

William L. Miller
 Anderson Twp.

Donna F. England
 Anderson Twp.

Richard J. Menchen
 Mack

FRONT ROW

008904